

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

MICHAEL K. HERRON,
Debtor.

: Case No. 19-24527-TPA
: Chapter 11
: Related to Doc. Nos. 92, 96

ORDER

A hearing was held this date on final approval of the Debtor's *Amended Disclosure Statement to Accompany Debtor's Amended Plan of Reorganization Under Chapter 11 of the United States Bankruptcy Code Dated May 26, 2020* ("Disclosure Statement") (Doc. 96) and confirmation of the *Debtor's Amended Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code Dated May 26, 2020* ("Plan") (Doc. 92). At the hearing, the objecting creditors appeared, and the consensus was that the Debtor has not provided adequate information in his *Disclosure Statement* to allow for creditors to understand the proposed treatment of their claims under the *Plan*. The Court agrees that the information provided in the *Disclosure Statement* is woefully inadequate. The United States Internal Revenue Service informed the Court that the Debtor is still missing his 2019 tax return, and the Commonwealth of Pennsylvania Department of Revenue informed the Court that it has not received tax returns for the years 2015, 2016, 2017, and 2019, and tax returns were due to be filed as a result of the Debtor's significant rental income he receives from his Pittsburgh, Pennsylvania properties.

The Court shares these concerns and must also point out that the Debtor is delinquent on his June 2020 Monthly Operating Report, which the Debtor will need to file immediately. Based on the Monthly Operating Reports and the number of claims proposed to be paid through the *Plan*, the Court has serious doubts regarding the feasibility of this case. Counsel for the Debtor explained that the Debtor has realized some property will need to be sold in order

to make this case work, which the Court will require to occur in an expeditious manner. The Court reminds Counsel for the Debtor of its policy that all sales of real estate must occur within a year from the date of case filing. Counsel for the Debtor also stated he may need to file various 506 actions, which the Court will require be done in the next thirty days. The Court also notes at the time of the hearing, Counsel for the Debtor brought up the issue of this case's small business designation. After reviewing the petition and claims in this case, the Court agrees that this case is improperly designated as small business, and will direct the Clerk to remove the designation, below. Therefore,

AND NOW this 30th day of *July 2020*, for the reasons stated above and at today's hearing, it is hereby **ORDERED, ADJUDGED, and DECREED** that:

(1) Final approval of the Debtor's *Amended Disclosure Statement to Accompany Debtor's Amended Plan of Reorganization Under Chapter 11 of the United States Bankruptcy Code Dated May 26, 2020* (Doc. 96) and confirmation of the *Debtor's Amended Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code Dated May 26, 2020* (Doc. 92) is **DENIED**.

(2) The Debtor shall **immediately** file all delinquent tax returns with the Pennsylvania Department of Revenue.

(3) The Debtor shall **immediately** file his June 2020 Monthly Operating Report.

(4) **On or before August 31, 2020**, the Debtor shall file all 506 actions.

(5) **On or before August 31, 2020**, the Debtor shall file a motion to employ a realtor which includes a listing agreement for all the properties the Debtor seeks to sell in this case.

(6) The Clerk is directed to remove the Small Business designation from the above-captioned case.

(7) ***On or before August 31, 2020***, the Debtor shall file a ***Report of Tax Claims and Properties*** containing the information that should have been identified in the Disclosure Statement, including the details of each tax claim and the details of each parcel of property owned by the Debtor. The Debtor shall use the following form for each tax claim and each piece of property in his report:

Tax Claim

Secured – \$X

Priority – \$X

Unsecured – \$X

Proposed Treatment of Claim – (Narrative of proposed treatment)

Address of Property

Debtor's Valuation – \$X

Appraised Valuation – \$X

Fair Market Valuation – \$X

Debt as stated on Proof of Claim – \$X


Debtor according to Debtor's calculation – \$X

Lienholder – (Ex. Wells Fargo)

Proposed Plan Treatment – (Narrative of proposed treatment)

(8) Upon the Court's receipt of the *Report of Tax Claims and Properties*, as required in Paragraph 7, above, a subsequent order scheduling hearing on the *Report of Tax Claims and Properties* will be issued.

(9) In the course of reviewing the various objections filed by creditors in this case, the Court has also become concerned as to whether the Western District of Pennsylvania is a proper venue for this case under 28 U.S.C. Section 1408. The Debtor is a resident of Florida and as far as the Court can tell based on the Schedules filed with the Debtor's petition Florida is also the state in which the largest portion of the Debtor's assets by value is located. The Court will therefore require that *on or before August 31, 2020*, the Debtor shall file a Statement in support of the position that this Court is a proper venue for this case, and *on or before September 14, 2020* any interested party may file a response to such Statement. Upon receipt and review of the Debtor's Statement and any responses that may be filed the Court will issue a further order as necessary on the question of venue.


Thomas P. Agresti, Judge
United States Bankruptcy Court

Case administrator to serve:
Aurelius Robleto, Esq.
Jill Locnikar, Esq.
Lauren Michaels, Esq.
Brian Kile, Esq.
Keri Ebeck, Esq.
Thomas Song, Esq.
Debtor

Imaged Certificate of Notice Page 5 of 5

United States Bankruptcy Court
Western District of PennsylvaniaIn re:
Michael K. Herron
DebtorCase No. 19-24527-TPA
Chapter 11**CERTIFICATE OF NOTICE**

District/off: 0315-2

User: mgut
Form ID: pdf900Page 1 of 1
Total Noticed: 2

Date Rcvd: Jul 31, 2020

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 02, 2020.

db +Michael K. Herron, 1276 Tacoma Street, Hernando, FL 34442-3237
+Keri Ebeck, Esq., 707 Grant St., Ste. 2200 Gulf Tower, Pittsburgh, PA 15219-1908Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Aug 02, 2020

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on July 31, 2020 at the address(es) listed below:

Aurelius P. Robleto on behalf of Debtor Michael K. Herron apr@robletolaw.com,
rmk@robletolaw.com,ecf_admin@robletolaw.com,apr@ecf.courtdrive.com,G16422@notify.cincompass.com

Brian E. Caine on behalf of Creditor U.S. Bank Trust National Association, as Trustee of the
Bungalow Series III Trust bcaine@parkermccay.com, BKcourtntices@parkermccay.com

Brian M. Kile on behalf of Creditor NextTier Bank, N.A. bkile@grenenbirsic.com,
mcupec@grenenbirsic.com/lstanger@grenenbirsic.com

Charles Griffin Wohlrab on behalf of Creditor Wells Fargo Bank, National Association
cwohrlab@rascrane.com

James Warmbrodt on behalf of Creditor BANK OF AMERICA, N.A. bkgroup@kmlawgroup.com

Jill Locnikar on behalf of Creditor United States of America Department of the Treasury,
Internal Revenue Service jill.locnikar@usdoj.gov,
patricia.fitzgerald@usdoj.gov;caseview.ecf@usdoj.gov

Kevin Scott Frankel on behalf of Creditor NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER
pabk@logs.com

Kristen D. Little on behalf of Creditor NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER
pabk@logs.com, klittle@logs.com

Lauren Michaels on behalf of Creditor Office of Attorney General, Department of Revenue
lmichaels@attorneygeneral.gov

Mark J. Pecarchik on behalf of Creditor U.S. Bank Trust National Association, as Trustee of
the Bungalow Series III Trust pecarchik1@msn.com, FedPhe@hotmail.com

Norma Hildenbrand, on Behalf of the United States Trustee by on behalf of U.S. Trustee
Office of the United States Trustee Norma.L.Hildenbrand@usdoj.gov

Office of the United States Trustee ustpreion03.pi.ecf@usdoj.gov

Sheetal Ramesh Shah-Jani on behalf of Creditor Wells Fargo Bank, National Association
sshahjani@rascrane.com

Thomas Song on behalf of Creditor DEUTSCHE BANK NATIONAL TRUST COMPANY,et.al. pawb@fedphe.com

Thomas Song on behalf of Creditor BANK OF AMERICA, N.A. pawb@fedphe.com

TOTAL: 15